

MR. CHAIRMAN: Yes, Mr. N.R. Choudhury.

SHRI N.R. CHOUDHURY: Sir, I would like to know from the honourable Minister when the proposed tube railway in Calcutta is going to be completed. This is number one. Secondly, it is said that they are having feasibility studies for Delhi and Bombay. I would like to know whether they have any plans to construct such tube railway lines in Delhi and Bombay and, if so, what is their tentative programme?

SHRI MOHD. SHAFI QURESHI: As per the earlier schedule, the line in Calcutta is to be completed by 1979. With regard to the other two metropolitan systems in Delhi and Bombay, I have already stated that they are at the stage of feasibility studies.

MR. CHAIRMAN: Yes, Mr. O. P. Tyagi. Last question.

श्री ओईस प्रकाश त्यागी : मैं मंत्री महोदय से जानना चाहूंगा कि क्या दिल्ली के सम्बन्ध में भी कोई भूमिगत रेल की योजना है ? यदि हां, तो इस दिशा में क्या प्रगति हुई है ?

شری مستند شفیع قریشی : میں نے جواب دیا تھا کہ دہلی کے بارے میں پلان ہے اور اگر آپ تفصیل چاہتے ہیں تو میں دینے کے لئے تیار ہوں۔ اس وقت فیزیبلٹی اسٹڈی اسٹیج؛ اکانامی اسٹڈی اسٹیج اور ایکچوئل لوکیشن اسٹڈی کے بارے میں کام کیا جا رہا ہے۔

†[श्री मुहम्मद शफी कुरेशी : मैंने जवाब दिया था कि दिल्ली के बारे में प्लान है और अगर आप डिटेल चाहते हैं तो मैं देने के लिए तैयार हूँ। इस वक्त फिजिबिल्टी स्टडी स्टेज एकानामी स्टडी स्टेज और एक्चुअल लोकेशन स्टडी के बारे में काम किया जा रहा है।]

Increase in working days of the High Courts

♦155. SHRI O. P. TYAGI: Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state :

(a) whether statements of monthly disposal of cases by each High Court Judge are submitted to Government; and

(b) if so, whether Government propose to increase the number of working days of the High Courts?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI NITI RAJ SINGH CHAUDHURY) : (a) No. Sir.

(b) There is no such proposal at present.

श्री ओईस प्रकाश त्यागी : सभापति महोदय, मैं मंत्री महोदय से जानना चाहूंगा कि क्या यह बात सच है कि जितने उच्च-न्यायालय हैं, उन सब में एक आध केस नहीं बल्कि हजारों केस इस प्रकार के पड़े हुए हैं जो विचाराधीन हैं और जिनका फैसला अभी 10-15 सालों से नहीं हुआ है ? इस देश की गरीब जनता को उचित ढंग से न्याय नहीं मिल पा रहा है, तो क्या आप इस प्रकार की व्यवस्था करेंगे कि देश की जनता को शीघ्रता से और उचित ढंग से न्याय हाई कोर्ट और देश के अन्य न्यायालयों द्वारा मिल सके ? क्या इस सम्बन्ध में आप कोई सुधार करने जा रहे हैं ? यदि हां, तो किस रूप में ?

श्री नीतिराज सिंह चौधरी : यह बात सच नहीं है कि हजारों की संख्या में केस पड़े हुए हैं और 10-15 सालों से पड़े हुए हैं। पेंडेंसी के सम्बन्ध में अगर माननीय सदस्य संख्या चाहें, तो दे सकता हूँ। इन केसों का जल्दी निबटारा हो, इस बारे में प्रदेश की सरकारों को सलाह दी गई है कि वे हाई कोर्ट के जजों की संख्या बढ़ायें और यह संख्या बढ़ाई भी गई है।

श्री ओइम प्रकाश त्यागी : क्या यह सच है कि कुछ न्यायालयों में किसी प्रकार की कोई सुपर-विजन व्यवस्था न होने के कारण, वहां पर केसों की संख्या बढ़ गई है। जैसे डिस्ट्रिक्ट जजों में हाईकोर्ट का किसी तरह का कोई सुपरविजन नहीं है और इसी प्रकार हाईकोर्ट में भी इसी प्रकार की गड़बड़ी है। तो क्या सरकार हाईकोर्ट के जजों के कार्य के उपर कोई सुपरविजन की व्यवस्था करने के सम्बन्ध में विचार कर रही है, यदि, नहीं तो क्यों ?

श्री नोतिराज सिंह चौधरी : हाईकोर्ट के जजों के कार्य में परामर्श देना सुप्रीम कोर्ट का कार्य है और यही वजह है कि शासन इस सम्बन्ध में हस्तक्षेप करना नहीं चाहती है।

श्री ओइम प्रकाश त्यागी : बिल्कुल नहीं है। सुप्रीम कोर्ट को न्यायालयों के कार्यों के ऊपर कोई नियंत्रण नहीं है और न वहां से किसी प्रकार की कोई रिपोर्ट आती है। यह बिल्कुल गलत स्टेटमेंट है। आप उनसे पूछिये कि मैं सत्य कह रहा हूँ या नहीं ?

MR. CHAIRMAN: Yes, Mr. Minister, would you like to add anything ?

SHRI H. R. GOKHALE: Sir, the honourable Member will appreciate that the Government cannot and should not treat the High Courts and the Supreme Courts as the Departments of the Government. It is true that they cooperate with us and submit to us periodically returns showing the pendency of cases and so on.

So far as control over the disposal of cases is concerned, certain yardsticks have been laid down by the Chief Justice and by the Judges themselves. As far as I remember, an average of 650 per judge is regarded as a proper average, for disposal by a single judge. Now, it is not possible to control every judge, because it depends on the type of case which he hears, how long it takes, and so on. I feel, Sir, that any

kind of supervision from the Government in these matters should be completely ruled out. So far as the Supreme Court is concerned, I agree that they have no administrative control over the High Courts. But even then the Supreme Court does maintain contact with various High Courts and tries to see that there is expeditious disposal of cases.

SHRI R. K. MISHRA : With a view to expediting disposal of cases in the High Courts and also because of other considerations, the Central Government had been considering the question of establishing or restoring Benches of High Courts in some of the States. Will the hon. Minister tell the House when a decision is likely to be taken in the case of Rajasthan and U.P.?

SHRI H. R. GOKHALE : Sir, the question of establishing Benches is not linked with the question of disposal. On the contrary, the general view taken by the Judges themselves unanimously is that there should not be any Benches of the Court and there should be one principal seat and that alone will lead to quicker disposal of cases. In regard to Rajasthan and the other State which he mentioned—I do not remember the facts—the matter is under consideration. But I must submit that this has nothing to do with the question of disposal.

श्री रवी राय : सभापति महोदय, मैं मंत्री महोदय से जानना चाहता हूँ कि क्या मंत्री महोदय इस सिद्धान्त के साथ सहमत हैं कि जस्टिस डिलेड इज जस्टिस डिनाइड; और यदि हैं तो मैं जानना चाहता हूँ कि क्या उनको मालूम है कि राजनारायण जी बनाम मिसोज इन्दिरा नेहरू गांधी का केस इलाहाबाद हाईकोर्ट के सामने है और उसमें तीन साल बीत चुके हैं और उसका फैसला कब होगा ? 6 महीने के अन्दर फैसला होना चाहिए। इतनी देर क्यों होती है ? (Interruption) यह बहुत रिलेवेन्ट है।

SHRI A. G. KULKARNI: How can he ask about an individual case? I do not know. . .
(Interruptions).

श्री रवी राय : कुलकर्णी जी, आप भी जानते हैं कि यह रिलेवन्ट है। डिले के बारे में चर्चा हो रही है।

SHRI A. G. KULKARNI: You are asking about a specific case. How is it relevant here?

SHRI NIREN GHOSH: Delay is involved. Why not?

SHRI H. R. GOKHALE: I would submit that pending individual cases which are *sub judice*, whether this particular case or any other case, should not be discussed in the House. All that I can say is that the matter is being judicially considered by a Judge and he decides what he has to do. We have no hand in that. . .

(Interruptions).

श्री राजनारायण : श्रीमन, हमारा एक सुझाव है कि चूंकि प्रधान मंत्री इनवाल्ड हैं इसलिए इस केस को अन्तर्राष्ट्रीय कोर्ट में भेज दिया जाय।

श्री सभापति : आप बैठ जाइए।

श्री राजनारायण : जिस तरह से सुप्रीम कोर्ट के चीफ जस्टिस का एपोइंटमेंट हुआ है उसको देखते हुए . . . (Interruptions) घबड़ाते क्यों हो? (Interruptions) क्यों हल्ला करते हो, कुलकर्णी?

MR. CHAIRMAN : Please sit down, . . .
(Interruptions). Please sit down, Mr. Kulkarni. . .

(Interruptions).

श्री राजनारायण : पोइन्ट ऑफ आर्डर। मैं आपसे हाथ जोड़ कर निवेदन करता हूँ कि कृपा करके रूलिंग बेंच के सदस्यों से पूछा जाय कि वे क्यों हल्ला करते हैं। क्या सदन में हल्ला करना उनके लिए शोभा है? मेरा पोइन्ट ऑफ आर्डर यह है कि सत्ताधारी दल कैसे बिहेव करे। क्या उनको इस बात में शर्म नहीं है कि प्रधान

मंत्री के खिलाफ मुकदमा है और चीफ जस्टिस को किस तरह नियुक्त किया गया? चीफ जस्टिस में किसका विश्वास है?

MR. CHAIRMAN: Please sit down now.

SHRI K. CHANDRASEKHARAN :

Sir, the arrears in various High Courts in the country should be a matter of national concern and anxiety. Sir, a writ petition pending for more than three years would become useless, so far as the applicant is concerned. Sir, in this regard may I ask the hon. Minister two aspects of the matter? First, Sir, there was an Arrears Committee set up by the Supreme Court presided over by an ex-Chief Justice of the country, Mr. Justice Shah. I would like to know what view the Government have taken in the matter of implementing the recommendations contained in the report of that Committee? Secondly, Sir, the procedure in the various High Courts is governed by the various State High Court Acts. The procedure is absolutely not congenial for the proper and expeditious disposal of cases. May I know whether steps would be taken for streamlining the various State High Court Acts by convening either a conference of the State Law Ministers or of Chief Justices, or would the Central Government consider enactment of a Central High Courts Act for all the High Courts in the country?

SHRI H. R. GOKHALE: I share the concern of the hon. Member which is caused on account of pendency of a large number of cases in the various High Courts. Many ways are being looked into and one of them was mentioned by my colleague just now, namely, that we wrote to all the State Governments asking for the increase of judges strength. I agree that that alone will not solve the problem. The delays are mainly in procedure and the solution lies in cutting down delays in the procedure. The hon. Member himself

is a very well-known lawyer. He knows that the procedure in civil cases is governed by the Civil Procedure Code. The Shah Committee report and the report of the Law Commission overlap in many respects. We consider both of them together and have proposed a new amendment to Civil Procedure Code which I must say is very basic and drastic amendment to the existing code of civil procedure. As the hon. Members know, this Bill has already been introduced in the last session and is now before the Joint Committee of Parliament and I do hope that after this Bill is passed, a considerable amount of delay in the conduct of civil cases will be cut down. The Criminal Procedure Code has already been amended and as the hon. Member knows, that also deals with doing away with certain procedures and so many other things which would result in cutting down the delays in criminal cases. Perhaps, the hon. Member referred to the High Courts Act. Perhaps, he has referred to the latest pattern. I am not aware of any other Act.

SHRI K. CHANDRASEKHARAN :
Delays in disposal of cases by single Judges and Division Benches should be reduced.

SHRI H. R. GOKHALE: That is a matter of rules framed by the High Courts. I agree that these rules are not uniform but even in that matter, we have taken up the question with the various High Courts through the Chief Justice of the Supreme Court that even those rules may be looked into again so that even in that matter something can be done to reduce delays. Shah Committee Report is the only aspect of the question which has remained. As I said earlier, some of the recommendations of the Shah Committee and the report of the Law Commission relating to amendment of civil procedure were overlapping and we consider both of

them together and I have already made proposals which are part of the Bill which is before the Joint Select Committee. Certain other recommendations of the Shah Committee were of administrative nature and do not require legislation. As the hon. Member knows, the administration of justice is a State subject and on each of these matters, we have drawn the attention of the State Governments for implementing these recommendations of the Shah Committee.

SHRI A. G. KULKARNI: May I know, Sir, whether the Minister is aware of the observations made by the Maharashtra Minister for Law and Judiciary on the floor of the Assembly about the delay in the pending cases in the High Courts and in this connection also the resolution passed by the Bar Association Bombay about the remarks made by the Minister? I want to know categorically the views of the Government of India whether the reasons mentioned by the Minister are relevant or otherwise.

SHRI H. R. GOKHALE: I am not aware of what transpired in the debates in the Maharashtra Legislative Assembly and I am not able to comment on it.

SHRI SARDAR AMJAD ALI: Sir, in view of the urgency of expeditious implementation of the land reforms which the various State Governments have expressed, may I know from the hon. Minister as to whether the Law Ministry at the Centre has assessed as to how many cases with regard to land reforms in the form of writ petitions are pending in different High Courts and if there are many such cases—as far as we know, a few thousands of acres of land, vested land, are involved in it and that also stands in the way of implementation of land reforms in the country—I would like to know from the hon. Minister as to what policy decision he is taking with regard to those

cases which involve some social legislation especially with regard to those particular cases which involve the vested land.

SHRI H. R. GOKHALE: The question of land reforms is a State subject, and at the Centre, the question of land reforms is dealt with by the Ministry of Agriculture. So far as the Law Ministry is concerned, it has no statistics.

SHRI HARSH DEO MALAVIYA: Sir, in view of the fact that land reforms is a State subject, and in view of the deep interest which the Centre has taken on the question of land reforms, also in view of the fact that land reforms are very vital in the conditions of to day to increase our production, will the hon. Minister consider it advisable to advise the State Governments to appoint special tribunals to decide land reform cases whose numbers are growing every day?

SHRI H. R. GOKHALE: Sir, although I cannot say on behalf of all the States, as far as I know, in a good many States, Special Tribunals for disposal of land reform cases have already been established.

MR. CHAIRMAN: Next Question.

Over-crowding in the legal profession

*156: SHRI NABIN CHANDRA BURAGOHAIN :f

SHRI K. B. CHETTRI:

DR. R. K. CHAKRABARTI:

SHRI N. P. CHAUDHARI:

DR. V. A. SEYID MUHAMMAD :

Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(The question was actually asked on the floor of the House by Shri Nabin Chandra Buragohain.

(a) whether Government have made any assessment of the over-crowding in the legal profession and resultant decline in professional standards; and

(b) if so, what steps are being taken to remedy the situation?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI NITI RAJ SINGH CHAUDHURY):

(a) No, Sir. Government have not made any assessment of the overcrowding in the legal profession and resultant decline in professional standard since the passing of the Advocate Act, 1961. (b) Does not arise.

SHRI NABIN CHANDRA BURAGOHAIN: Sir, due to the mushroom growth of lawyers in the country, District Bars have become too much congested and as a result, the standard and the income of the lawyers have fallen down to a great extent and so much so, 50 per cent of them are below the starvation point. Therefore, may I ask the hon. Minister to take some steps like restrictions on the growth of law colleges, raising the standard of law examinations, and diversion of many young lawyers by providing other jobs?

SHRI H. R. GOKHALE: Perhaps, the hon. Member is not aware that after the passing of the Advocates Act, the control on the legal education is in the charge of an autonomous body of the lawyers, namely, the Bar Council of India. They are bound to consult the universities, they are bound to consult other agencies which are concerned with this and on that basis, they lay down the qualifications for entry into the profession. And it is that autonomous body which is charged with that duty which, I suppose, they are doing conscientiously.

SHRI NABIN CHANDRA BURAGOHAIN: Sir, as the initial courts in India take too much of time in deciding